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Book 1

JOHN McDOWELL—LEGAL REPRESENTATIVES OF.

APRIL 17, 1858.

Mr. CURRY, from the Committee on Revolutionary Claims, made the following

REPORT.

The Committee on Revolutionary Claims, to whom was referred the petition of the representatives of John McDowell, after a consideration of the same, adopt the report made on this case at the 2d session of the 27th Congress :

The petitioners ask the commutation pay for the services of John McDowell, as a lieutenant in the Virginia continental line, from 1776 to the close of the war.

It appears from the rolls of the Virginia line that John McDowell was an ensign in the 12th Virginia regiment, at its first organization in December, 1776 ; that he was retained in service, as a lieutenant, at the arrangement made at White Plains, in September, 1778, having been promoted to a lieutenantcy September 7, 1778—the 12th then becoming the 8th regiment ; that he was also retained in service at the arrangement at Middlebrook, in March, 1779 ; and his name is also found among those of the officers in service at the Chesterfield arrangement, made in February, 1781. But his name is omitted on all the subsequent arrangements of the line ; nor was he returned as entitled to bounty land, or commutation, at the close of the war. It appears from the Cumberland arrangement, made in May, 1782, that McDowell had previously resigned, and that Mr. Luddeman had, on the 15th of June, 1781, been appointed lieutenant in his place. His name is also found on the list of *resigned* officers, made at Cumberland court-house September 2, 1782.—(See report 436, 1st sess. 26th Congress, page 102.) It appears, also, that on the 18th of June, 1783, Lieutenant McDowell personally settled his account with the Virginia authorities, and received pay for his services, ending June 16, 1781, which was no doubt the date of his resignation.

This case furnishes a striking example of the little reliance that can be placed on parol evidence, recently taken, of the revolutionary services of officers, however respectable and intelligent the witnesses may be. There are produced the affidavits, taken in 1831, of Colonel Abraham Bowman and Colonel Abraham Buford, of the revolutionary army, which are very strong that Lieutenant McDowell served to the end of the war. Colonel Bownan says that he commanded the 8th

Virginia regiment in the revolutionary war, was well acquainted with Lieutenant McDowell, and that *he knows* said McDowell did serve to the end of the revolutionary war—"that is to say, he was either in actual service or on furlough until the war closed, in 1783, and that said McDowell was entitled to his commutation certificates, and would have gotten them had he applied for them." If this were true, would Lieutenant McDowell, in 1783, have been content to accept of pay for his services only to the 16th of June, 1781? Moreover, is it probable he would have neglected to obtain his commutation certificates, if they could have been got by the mere asking for them? Would he have been entered as a resigned officer, and his place filled by another, if he had served to the close of the war? Probably Colonel Bowman thought he knew the facts he stated; but that he could not have known them personally is apparent from the fact, which appears from the rolls, that he was himself only in continental service for a short period—from some time in 1777 till September, 1778. On the arrangement at White Plains, made in September, 1778, the name of Colonel Bowman is entered among those who had then become supernumerary, and against his name is written, "supposed will resign." That he did resign there is very little doubt, from the fact that, in the arrangement made in March following, his name is not mentioned as either in service or as supernumerary, which it would have been had he not resigned. But, whether he resigned or not, his service terminated in September, 1778, and he could not have had accurate personal knowledge afterwards of Lieutenant McDowell's service.

Colonel Buford did serve in the continental line to the close of the war, but his evidence is less positive than that of Colonel Bowman. He says he knew Lieutenant McDowell in the northern army, and that he continued to serve in the continental line until the year 1780, when he joined the said Buford's regiment in Carolina; that the said Buford was taken sick and went home, *in the year* 1781, and left said McDowell in service; that he saw him no more until November, 1781, after the surrender of Cornwallis; that he was not then in actual service, but belonged to the army; that he never heard of his resigning, and *considers* he did serve to the close of the war, in 1783. Though this affidavit is calculated to make an impression that Lieutenant McDowell did serve to the close of the war, yet it will be perceived, on examination, that we have only to suppose that Colonel Buford might have been mistaken in considering McDowell as belonging to the army when he saw him *out of service* in November, 1781, and it will be reconciled with the record evidence. Colonel Buford returned to Virginia *in the year* 1781, but at what time in 1781 is not stated. It might very well have been previous to June 16th of that year, when McDowell appears to have been in service.

On this evidence, which is now clearly shown to have been inaccurate, Lieutenant McDowell was allowed the full pay under the act of Congress of May 15, 1828, and has been paid from the treasury over \$3,000, to which he was not entitled.

The committee recommend that the claim be rejected.

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